

## SUMMARY ANALYSIS OF AMENDED BILL

Author: Kelley Analyst: Jeani Brent Bill Number: SB 200

Related Bills: See Prior Analysis Telephone: 845-3410 Amended Date: 06/03/97

Attorney: Doug Bramhall Sponsor: \_\_\_\_\_

**SUBJECT:** Region/Employer's Hiring Credit

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

☒ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

☒ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced January 27, 1997 and amended April 14, 1997.

☒ FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED January 27, 1997 AND AMENDED April 14, 1997 STILL APPLY.

☒ OTHER - See comments below.

### SUMMARY OF BILL

Under the Government Code, this bill would authorize a new type of economic development area called "regions." This bill would require the Trade and Commerce Agency (TCA) to designate two "regions" in addition to the 39 enterprise zones. This bill would specify that TCA could designate only cities that meet certain additional criteria. This bill would specify that, to qualify for the tax credit, businesses located in these "regions" must hire at least 30% of their workforce from the county in which the "region" is located.

Under the Revenue and Taxation Code, this bill would allow businesses operating in "regions" a hiring credit similar to the hiring credit allowed to businesses operating in enterprise zones.

### SUMMARY OF AMENDMENT

The amendment made the following changes:

- Changed from designating two additional enterprise zones to creating and designating two "regions."
- Changed the 30% workforce criteria to apply only to the hiring credit provided in the bill instead of all enterprise zone tax incentives.
- Added Revenue and Taxation Code provisions to create a new hiring credit. This hiring credit would be similar to the enterprise zone hiring credit

### DEPARTMENTS THAT MAY BE AFFECTED:

\_\_\_\_ STATE MANDATE

\_\_\_\_ GOVERNOR'S APPOINTMENT

Department Director Position:

☐ S ☐ O  
☐ SA ☐ OUA  
☐ N ☐ NP  
☐ NA ☐ NAR  
☐ PENDING

Agency Secretary Position:

☐ S ☐ O  
☐ SA ☐ OUA  
☐ N ☐ NP  
☐ NA ☐ NAR  
DEFER TO \_\_\_\_\_

### GOVERNOR'S OFFICE USE

Position Approved \_\_\_\_\_  
Position Disapproved \_\_\_\_\_  
Position Noted \_\_\_\_\_

Department/Legislative Director Date

Agency Secretary Date

By: \_\_\_\_\_ Date: \_\_\_\_\_

except that this credit: (1) is limited to taxpayers engaged in certain lines of business, (2) is limited to an annual maximum of \$2 million, (3) would provide a two-factor apportionment formula, and (4) appears not to require a taxpayer to operate in the "region" to be a "qualified taxpayer."

#### SPECIFIC FINDINGS

The "Program History/Background" and discussion of existing law in the department's analysis of the bill as introduced still apply.

**This bill** would authorize a new type of economic development area called "regions." This bill would require TCA to designate two "regions" in addition to the 39 enterprise zones designated under existing law. Regions would have to be located in a Border Environment Cooperation Commission region (as defined) and be part of a federal enterprise community or empowerment zone, and the unemployment rate in the area's county must be three times higher than the state's average. Regions also would have to satisfy one of the following conditions: the region's population has grown less than 5% per year for each of the two years preceding the application date; the median annual household income is less than \$25,000; the region has a population of less than 20,000, based on 1990 federal census; the region is at least 51% non-Anglo; or the region is located in a rural community.

Currently, the only cities that could meet the criteria are Brawley, Calexico, and Calipatria.

**This bill** would provide that these regions would be deemed designated under the existing enterprise zone designation rules for purposes of applying the tax incentives provided to existing enterprise zones. In addition, the bill would provide an additional hiring credit. This bill would require that this hiring credit would not be allowed unless at least 30% of the business's workforce is from the county in which the region is located.

#### Implementation Considerations

This bill raises the following implementation considerations:

1. The bill allows all existing enterprise zone tax incentives to businesses operating in "regions," in addition to the hiring credit provided in the bill. After discussions with the author's staff, committee staff, and the sponsor, the department understands the intent of this bill is to provide only one tax incentive—the hiring credit provided in the bill—and not allow businesses operating within "regions" the existing enterprise zone tax incentives. Amendment 3 would revise the provision to specify that, for purposes of applying the tax incentives, regions shall not be considered designated under the existing enterprise zone designation rules. Amendment 1 and 3 would remove from the Government Code provision a reference to "enterprise zones" and to "Section 7073, both of which could have caused ambiguity with regards to whether the enterprise zone tax incentives would be available to taxpayers operating in regions. Also, sections 3, 4, 5, 6, 8, 9, and 10 of amendment 3 are included to amend the existing enterprise zone incentives to ensure that taxpayers operating in regions would not be allowed those incentives.
2. The 30% workforce criterion would raise the following concerns. The attached amendments would resolve these concerns pursuant to

discussions with the author's staff, committee staff, and the sponsor, as follows:

- a) Amendments 2 and 3 would remove the provision from the Government Code as unnecessary, since the provision is included in the Revenue and Taxation Code sections.
  - b) Amendment 3 would move the provision from the end of the credit sections to the definition of a qualified taxpayer. This change would ensure that all "qualified taxpayer" criteria are contained in the same place.
  - c) Amendment 3 would clarify that the 30% workforce criterion would be determined based on employees newly hired after the zone is designated.
  - d) Amendment 3 would clarify that "from the county" would mean that the employees must be residents of the county at the time they are hired.
3. Amendment 3 would specifically tie the definition of "qualified taxpayer" to only those taxpayers engaged in a business within a "region."

#### Technical Considerations

The department's analysis of the bill as amended April 14, 1997, inadvertently included technical considerations that already were resolved by the April 14, 1997, amendments and thus, no longer apply. The following technical considerations are raised by the June 3, 1997, amendments:

1. This bill does not contain a provision similar to the one in the existing enterprise zone hiring credit that specifies that wages paid or incurred after the zone expiration date do not qualify for the credit. Although, to be qualified, wages must be paid to an individual who performs a certain percentage of services in the region, the bill does not specifically state that qualified wages are only those paid during the "region" designation period. Per discussions with committee staff, amendment 3 would resolve this concern by providing that qualified wages do not include wages paid after the region expiration date, except for wages paid to employees hired within 60 months prior to the region expiration date. Also, amendment 3 would define "region expiration date" as the date the designation expires, is no longer binding, or becomes inoperative.
2. Amendment 3 would modify the provisions regarding taxpayers of commonly controlled groups to incorporate technical changes made last year to the enterprise zone hiring credit provisions.
3. Section 2.5 and Section 7.5 of amendment 3 would create a second set of hiring credits, the only difference being that these sections would replace the bill's election provision with a provision limiting the taxpayer to one credit with respect to qualified wages. This provision is similar to a change for the Los Angeles Revitalization Zone (LARZ) and Local Agency Military Base Recovery Area (LAMBRA) hiring credits proposed in Assembly Bill 1040. As requested by committee staff, Sections 11 and 12 of amendment 3 would double-join this bill and AB 1040 to ensure that

these provisions would become operative only if the provisions in AB 1040 become operative.

4. This bill uses the term "employer" in places in which "qualified taxpayer" would be more appropriate and the term "employee" or "individual" in places in which "qualified disadvantaged individual" should be used. Also, the Bank and Corporation Tax Law provisions use the term "taxable" year instead of "income" year. Amendment 3 would correct these technical items.

#### FISCAL IMPACT

##### Departmental Costs

If the bill is amended to resolve the implementation considerations addressed in this analysis, the department's costs are expected to be minor.

##### Tax Revenue Estimate

Revenue losses for two regions to be located in south-state border communities are projected as follows:

Revenue Impact For Two Additional Enterprise Zones Enacted After June 30 1997 (in millions)		
1997-8	1998-9	1999-0
Negligible Loss	Minor Loss	(\$1)
Negligible = Less than \$250,000		
Minor = \$250,000-\$500,000		

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

##### Tax Revenue Discussion

Revenue losses under the Personal Income Tax Law and the Bank and Corporation Tax Law would depend on the number of manufacturers that would hire qualifying employees, the wages paid, and the state tax liabilities of employers claiming the credit.

The effectiveness of such regional zones is unknown, but the potential exists for significant businesses to locate in these areas after a year or so. This bill focuses on the California-Mexico border where economic activity is expected to change significantly in the near future due to increased public attention and policies such as NAFTA. An aggressive local planning effort could direct much of the new development into a zone such as proposed by this bill. It is projected that losses for the first two years from the hiring credit would be minor, reaching the \$1 million level by 1999-0.

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Attorney         Doug Bramhall

FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO SB 200  
As Amended June 3, 1997

AMENDMENT 1

On page 2, modify lines 3 and 4, as follows:

7073.8. (a) ~~In addition to the enterprise zones authorized pursuant to Section 7073, the~~ The agency shall

AMENDMENT 2

On page 2, line 34, strikeout "(1)".

AMENDMENT 3

Modify pages 3 through 13, as follows:

(b)~~(1)~~ For purposes of applying any provision of the Revenue and Taxation Code, any region designated pursuant to this section shall not be ~~deemed~~ considered an enterprise zone designated by Section 7073 pursuant to this chapter.

~~(2) No business located within an a region designated pursuant to this section shall qualify for a tax credit pursuant to Section 17053.47 or 23622.8 of the Revenue and Taxation Code unless that business hires at least 30 percent of its work force from the county in which the region is located.~~

(c) The designation as a region pursuant to ~~Section 7073 and~~ this section shall be binding for a period of 15 years.

SEC. 2. Section 17053.47 is added to the Revenue and Taxation Code, to read:

17053.47. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the "net tax" (as defined in Section 17039) to a qualified taxpayer for hiring a qualified disadvantaged individual during the taxable year for employment in the region. The credit shall be equal to the sum of each of the following:

- (1) Fifty percent of the qualified wages in the first year of employment.
- (2) Forty percent of the qualified wages in the second year of employment.
- (3) Thirty percent of the qualified wages in the third year of employment.
- (4) Twenty percent of the qualified wages in the fourth year of employment.
- (5) Ten percent of the qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) That portion of wages paid or incurred by the ~~employer~~ qualified taxpayer during the taxable year to qualified disadvantaged individuals that does not exceed 150 percent of the minimum wage.

(B) The total amount of qualified wages which may be taken into account for purposes of claiming the credit allowed under this section shall not exceed two million dollars (\$2,000,000) per taxable year.

(C) Wages received during the 60-month period beginning with the day the individual qualified disadvantaged individual commences employment with the qualified taxpayer.

(D) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the region expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the region within the 60-month period prior to the region expiration date shall continue to qualify for the credit under this section after the region expiration date, in accordance with all provisions of this section applied as if the region designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Region" means a region designated pursuant to Section 7073.8 of the Government Code according to the procedures of Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(4) "Region expiration date" means the date the region designation expires, is no longer binding, or becomes inoperative.

(5) "Qualified disadvantaged individual" means an individual who satisfies all of the following requirements:

(A) (i) At least 90 percent of whose services for the qualified taxpayer during the taxable year are directly related to the conduct of the qualified taxpayer's trade or business located in a region.

(ii) Who performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in the region.

(B) Who is hired by the ~~employer~~ qualified taxpayer after the designation of the area as a region in which the individual's services were primarily performed.

(C) Who is any of the following immediately preceding the individual's commencement of employment with the qualified taxpayer:

(i) An individual who has been determined eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.).

(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 as provided pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) Any individual who has been certified eligible by the Employment Development Department under the federal Targeted Jobs Tax Credit Program, whether or not this program is in effect.

~~(5)~~

(6) "Qualified taxpayer" means any taxpayer engaged in a trade or business within a region designated pursuant to Section 7073.8 of the Government Code and who meets both of the following:

(A) Is engaged in those lines of business described in Codes 2011 to 3999, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(B) At least 30 percent of the qualified taxpayer's work force hired after the designation of the region is composed of qualified disadvantaged individuals who, at the time of hire, are residents of the county in which the region is located.

(c) (1) For purposes of this section, ~~both~~ all of the following apply:

(A) All employees of trades or businesses that are under common control shall be treated as employed by a single ~~employer~~ qualified taxpayer.

(B) The credit (if any) allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit and shall be allocated in that manner.

~~The regulations prescribed under this paragraph shall be based on principles similar to the principles that apply in the case of controlled groups of corporations as specified in subdivision (e) of Section 23622.~~

(C) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (d) of Section 23622.7, shall apply with respect to determining employment.

(2) If ~~an employer~~ a qualified taxpayer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (d)) for any calendar year ending after that acquisition, the employment relationship between ~~an employee~~ a qualified disadvantaged individual and ~~an employer~~ a qualified taxpayer shall not be treated as terminated if the ~~employee~~ qualified disadvantaged individual continues to be employed in that trade or business.

(d) (1) If the employment of any ~~employee~~ qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (b) is terminated by the qualified taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that ~~employee~~ qualified disadvantaged individual completes 90 days of employment with the qualified taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount ~~(determined under those regulations)~~ equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that ~~employee~~ qualified disadvantaged individual.

(2) (A) Paragraph (1) does not apply to any of the following:

(i) A termination of employment of ~~an employee~~ a qualified disadvantaged individual who voluntarily leaves the employment of the qualified taxpayer.

(ii) A termination of employment of ~~an~~ a qualified disadvantaged individual who, before the close of the period referred to in paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of ~~an~~ a qualified disadvantaged individual, if it is determined under the applicable employment compensation laws that the termination was due to the misconduct of that individual.

(iv) A termination of employment of ~~an~~ a qualified disadvantaged individual due to a substantial reduction in the trade or business operations of the qualified taxpayer.

(v) A termination of employment of ~~an~~ a qualified disadvantaged individual, if that individual is replaced by other qualified ~~employees~~ disadvantaged individuals so as to create a net increase in both the number of employees and the hours of employment.

(B) For purposes of paragraph (1), the employment relationship between the qualified taxpayer and ~~an employee~~ a qualified disadvantaged individual shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the ~~employee~~ qualified disadvantaged individual continues to be employed in that trade or business and the qualified taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(e) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated (for purposes of this part) as the employer with respect to those wages.

(f) The credit shall be reduced by the credit allowed under Section 17053.7. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the qualified taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (g) or (h).

(g) In the case where the credit otherwise allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit that exceeds the "net tax" may be carried over and added to the credit, if any, in succeeding years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(h) (1) The amount of credit otherwise allowed under this section, including prior year credit carryovers, that may reduce the "net tax" for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer's business income attributed to a region determined as if that attributed income represented all of the net income of the qualified taxpayer subject to tax under this part.

(2) The amount of attributed income described in paragraph (1) shall be determined in accordance with the provisions of Chapter 17 (commencing with Section 25101) of Part 11, modified for purposes of this section as follows:

(A) Income shall be apportioned to a region by multiplying total business income by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(B) "The region" shall be substituted for "this state."

(3) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (g).

(i) (1) In the case where "qualified wages" qualify for a credit under more than one section in this part, the qualified taxpayer shall make an election as to which section applies to those qualified wages.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

~~(j) A Qualified taxpayer located within a region designated pursuant to this section shall not qualify for the credit provided by this section and Section 23622.8 unless that business hires at least 30 percent of its workforce from the county in which the region is located.~~

SEC. 2.5. Section 17053.47 is added to the Revenue and Taxation Code, to read:

17053.47. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the "net tax" (as defined in Section 17039) to a qualified taxpayer for hiring a qualified disadvantaged individual



during the taxable year for employment in the region. The credit shall be equal to the sum of each of the following:

- (1) Fifty percent of the qualified wages in the first year of employment.
- (2) Forty percent of the qualified wages in the second year of employment.
- (3) Thirty percent of the qualified wages in the third year of employment.
- (4) Twenty percent of the qualified wages in the fourth year of employment.
- (5) Ten percent of the qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) That portion of wages paid or incurred by the qualified taxpayer during the taxable year to qualified disadvantaged individuals that does not exceed 150 percent of the minimum wage.

(B) The total amount of qualified wages that may be taken into account for purposes of claiming the credit allowed under this section shall not exceed two million dollars (\$2,000,000) per taxable year.

(C) Wages received during the 60-month period beginning with the day the qualified disadvantaged individual commences employment with the qualified taxpayer.

(D) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the region expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the region within the 60-month period prior to the region expiration date shall continue to qualify for the credit under this section after the region expiration date, in accordance with all provisions of this section applied as if the region designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Region" means a region designated pursuant to Section 7073.8 of the Government Code according to the procedures of Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(4) "Region expiration date" means the date the region designation expires, is no longer binding, or becomes inoperative.

(5) "Qualified disadvantaged individual" means an individual who satisfies all of the following requirements:

(A) (i) At least 90 percent of whose services for the qualified taxpayer during the taxable year are directly related to the conduct of the qualified taxpayer's trade or business located in a region.

(ii) Who performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in the region.

(B) Who is hired by the qualified taxpayer after the designation of the area as a region in which the individual's services were primarily performed.

(C) Who is any of the following immediately preceding the individual's commencement of employment with the qualified taxpayer:

(i) An individual who has been determined eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.).

(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 as provided pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) Any individual who has been certified eligible by the Employment Development Department under the federal Targeted Jobs Tax Credit Program, whether or not this program is in effect.

(6) "Qualified taxpayer" means any taxpayer engaged in a trade or business within a region designated pursuant to Section 7073.8 of the Government Code and who meets both of the following:

(A) Is engaged in those lines of business described in Codes 2011 to 3999, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(B) At least 30 percent of the qualified taxpayer's work force hired after the designation of the region is composed of qualified disadvantaged individuals who, at the time of hire, are residents of the county in which the region is located.

(c) (1) For purposes of this section, all of the following apply:

(A) All employees of trades or businesses that are under common control shall be treated as employed by a single qualified taxpayer.

(B) The credit (if any) allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit and shall be allocated in that manner.

(C) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (d) of Section 23622.7, shall apply with respect to determining employment.

(2) If a qualified taxpayer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (d)) for any calendar year ending after that acquisition, the employment relationship between a qualified disadvantaged individual and a qualified taxpayer shall not be treated as terminated if the qualified disadvantaged individual continues to be employed in that trade or business.

(d) (1) If the employment of any qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (b) is terminated by the qualified taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that qualified disadvantaged individual completes 90 days of employment with the qualified taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified disadvantaged individual.

(2) (A) Paragraph (1) does not apply to any of the following:

(i) A termination of employment of a qualified disadvantaged individual who voluntarily leaves the employment of the qualified taxpayer.

(ii) A termination of employment of a qualified disadvantaged individual who, before the close of the period referred to in paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of a qualified disadvantaged individual, if it is determined under the applicable employment compensation laws that the termination was due to the misconduct of that individual.

(iv) A termination of employment of a qualified disadvantaged individual due to a substantial reduction in the trade or business operations of the qualified taxpayer.

(v) A termination of employment of a qualified disadvantaged individual, if that individual is replaced by other qualified disadvantaged individuals so as to

create a net increase in both the number of employees and the hours of employment.

(B) For purposes of paragraph (1), the employment relationship between the qualified taxpayer and a qualified disadvantaged individual shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the qualified disadvantaged individual continues to be employed in that trade or business and the qualified taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(e) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated (for purposes of this part) as the employer with respect to those wages.

(f) The credit shall be reduced by the credit allowed under Section 17053.7. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the qualified taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (g) or (h).

(g) In the case where the credit otherwise allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit that exceeds the "net tax" may be carried over and added to the credit, if any, in succeeding years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(h) (1) The amount of credit otherwise allowed under this section, including prior year credit carryovers, that may reduce the "net tax" for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer's business income attributed to a region determined as if that attributed income represented all of the net income of the qualified taxpayer subject to tax under this part.

(2) The amount of attributed income described in paragraph (1) shall be determined in accordance with the provisions of Chapter 17 (commencing with Section 25101) of Part 11, modified for purposes of this section as follows:

(A) Income shall be apportioned to a region by multiplying total business income by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(B) "The region" shall be substituted for "this state."

(3) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (g).

(i) If the qualified taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed under this part with respect to any wage consisting in whole or in part of those qualified wages.

SEC. 3. Section 17053.70 of the Revenue and Taxation Code is amended to read:

@@@@ LEG. COUNSEL: Please insert subdivision (a) through paragraph (2) of subdivision (b) of Section 17053.70.

(3) "Enterprise zone" means the area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

@@@@ LEG. COUNSEL: Please insert the remainder of Section 17053.70.

SEC. 4. Section 17053.74 of the Revenue and Taxation Code is amended to read:

@@@@ LEG. COUNSEL: Please insert subdivisions (a) through (f) of Section 17053.74.

(g) For purposes of this section, "enterprise zone" means an area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

@@@@ LEG. COUNSEL: Please insert the remainder of Section 17053.74.

SEC. 5. Section 17053.75 of the Revenue and Taxation Code is amended to read:

@@@@ LEG. COUNSEL: Please insert subdivision (a) through paragraph (2) of subdivision (b) of Section 17053.75.

(3) "Enterprise zone" means any area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

@@@@ LEG. COUNSEL: Please insert the remainder of Section 17053.75.

SEC. 6. Section 17235 of the Revenue and Taxation Code is amended to read:

@@@@ LEG. COUNSEL: Please insert subdivisions (a) through (b) of Section 17235.

(c) "Enterprise zone" means an area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

~~SEC. 3.~~

SEC. 7. Section 23622.8 is added to the Revenue and Taxation Code, to read:

23622.8. (a) For each income year beginning on or after January 1, 1998, there shall be allowed a credit against the "tax" (as defined in Section 23036) to a qualified taxpayer for hiring a qualified disadvantaged individual during the income year for employment in the region. The credit shall be equal to the sum of each of the following:

- (1) Fifty percent of the qualified wages in the first year of employment.
- (2) Forty percent of the qualified wages in the second year of employment.
- (3) Thirty percent of the qualified wages in the third year of employment.
- (4) Twenty percent of the qualified wages in the fourth year of employment.
- (5) Ten percent of the qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) That portion of wages paid or incurred by the ~~employer~~ qualified taxpayer during the income year to qualified disadvantaged individuals that does not exceed 150 percent of the minimum wage.

(B) The total amount of qualified wages which may be taken into account for purposes of claiming the credit allowed under this section shall not exceed two million dollars (\$2,000,000) per income year.

(C) Wages received during the 60-month period beginning with the day the qualified disadvantaged individual commences employment with the qualified taxpayer.

(D) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the region expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the region within the 60-month period prior to the region expiration date shall continue to qualify for the credit under this section after

the region expiration date, in accordance with all provisions of this section applied as if the region designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Region" means a region designated pursuant to Section 7073.8 of the Government Code according to the procedures of Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(4) "Region expiration date" means the date the region designation expires, is no longer binding, or becomes inoperative.

(5) "Qualified disadvantaged individual" means an individual who satisfies all of the following requirements:

(A) (i) At least 90 percent of whose services for the qualified taxpayer during the ~~taxable income~~ year are directly related to the conduct of the qualified taxpayer's trade or business located in a region.

(ii) Who performs at least 50 percent of his or her services for the qualified taxpayer during the income year in the region.

(B) Who is hired by the ~~employer~~ qualified taxpayer after the designation of the area as a region in which the individual's services were primarily performed.

(C) Who is any of the following immediately preceding the individual's commencement of employment with the qualified taxpayer:

(i) An individual who has been determined eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.).

(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 as provided pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) Any individual who has been certified eligible by the Employment Development Department under the federal Targeted Jobs Tax Credit Program, whether or not this program is in effect.

~~(5)~~

(6) "Qualified taxpayer" means any ~~taxpayer~~ corporation engaged in a trade or business within a region designated pursuant to Section 7073.8 of the Government Code and that meets both of the following:

(A) Is engaged in those lines of business described in Codes 2011 to 3999, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(B) At least 30 percent of the corporation's work force hired after the designation of the region is composed of qualified disadvantaged individuals who, at the time of hire, are residents of the county in which the region is located.

(c) (1) For purposes of this section, ~~both~~ all of the following apply:

(A) All employees of ~~trades or businesses that are under common control~~ all corporations that are members of the same controlled group of corporations shall be treated as employed by a single taxpayer.

(B) The credit (if any) allowable by this section with respect to each ~~trade or business member~~ shall be determined by reference to its proportionate share of the expenses of the qualified wages giving rise to the credit and shall be allocated in that manner.

~~The regulations prescribed under this paragraph shall be based on principles similar to the principles that apply in the case of controlled groups of corporations as specified in subdivision (c) of Section 23622.~~

(C) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (d) of Section 23622.7, shall apply with respect to determining employment.

(2) If ~~an employer~~ a qualified taxpayer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (d)) for any calendar year ending after that acquisition, the employment relationship between ~~an employee~~ a qualified disadvantaged individual and ~~an employer~~ a qualified taxpayer shall not be treated as terminated if the ~~employee~~ qualified disadvantaged individual continues to be employed in that trade or business.

(d) (1) If the employment of any ~~employee~~ qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (b) is terminated by the qualified taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that ~~employee~~ qualified disadvantaged individual completes 90 days of employment with the qualified taxpayer, the tax imposed by this part for the income year in which that employment is terminated shall be increased by an amount ~~(determined under those regulations)~~ equal to the credit allowed under subdivision (a) for that income year and all prior income years attributable to qualified wages paid or incurred with respect to that ~~employee~~ qualified disadvantaged individual.

(2) (A) Paragraph (1) does not apply to any of the following:

(i) A termination of employment of ~~an employee~~ a qualified disadvantaged individual who voluntarily leaves the employment of the qualified taxpayer.

(ii) A termination of employment of ~~an~~ a qualified disadvantaged individual who, before the close of the period referred to in paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of ~~an~~ a qualified disadvantaged individual, if it is determined under the applicable employment compensation laws that the termination was due to the misconduct of that individual.

(iv) A termination of employment of ~~an~~ a qualified disadvantaged individual due to a substantial reduction in the trade or business operations of the qualified taxpayer.

(v) A termination of employment of ~~an~~ a qualified disadvantaged individual, if that individual is replaced by other qualified employees ~~disadvantaged individuals~~ so as to create a net increase in both the number of employees and the hours of employment.

(B) For purposes of paragraph (1), the employment relationship between the qualified taxpayer and ~~an employee~~ a qualified disadvantaged individual shall not be treated as terminated by either of the following:

(i) By a transaction to which Section 381(a) of the Internal Revenue code applies, if the ~~employee~~ qualified disadvantaged individual continues to be employed by the acquiring corporation.

(ii) By reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the ~~employee~~ qualified disadvantaged individual continues to be employed in that trade or business and the qualified taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(e) The credit shall be reduced by the credit allowed under Section 23621. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the qualified taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (f) or (g).

(f) In the case where the credit otherwise allowed under this section exceeds the "tax" for the ~~taxable~~ income year, that portion of the credit that exceeds the "tax" may be carried over and added to the credit, if any, in succeeding years, until the credit is exhausted. The credit shall be applied first to the earliest ~~taxable~~ income years possible.

(g) (1) The amount of credit otherwise allowed under this section, including prior year credit carryovers, that may reduce the "tax" for the ~~taxable~~ income year shall not exceed the amount of tax that would be imposed on the qualified taxpayer's business income attributed to a region determined as if that attributed income represented all of the net income of the qualified taxpayer subject to tax under this part.

(2) The amount of attributed income described in paragraph (1) shall be determined in accordance with the provisions of Chapter 17 (commencing with Section 25101), modified for purposes of this section as follows:

(A) Income shall be apportioned to a region by multiplying total business income by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(B) "The region" shall be substituted for "this state."

(3) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding ~~taxable~~ income years, as if it were an amount exceeding the "tax" for the ~~taxable~~ income year, as provided in subdivision (g).

(h) (1) In the case where "qualified wages" qualify for a credit under more than one section in this part, the qualified taxpayer shall make an election as to which section applies to those qualified wages.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

~~(i) A qualified taxpayer located within a region designated pursuant to this section does not qualify for the credit provided by this section and Section 17053.47 unless that business hires at least 30 percent of its workforce from the county in which the region is located.~~

SEC. 7.5. Section 23622.8 is added to the Revenue and Taxation Code, to read:

23622.8. (a) For each income year beginning on or after January 1, 1998, there shall be allowed a credit against the "tax" (as defined in Section 23036) to a qualified taxpayer for hiring a qualified disadvantaged individual during the income year for employment in the region. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of the qualified wages in the first year of employment.

(2) Forty percent of the qualified wages in the second year of employment.

(3) Thirty percent of the qualified wages in the third year of employment.

(4) Twenty percent of the qualified wages in the fourth year of employment.

(5) Ten percent of the qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) That portion of wages paid or incurred by the qualified taxpayer during the income year to qualified disadvantaged individuals that does not exceed 150 percent of the minimum wage.

(B) The total amount of qualified wages that may be taken into account for purposes of claiming the credit allowed under this section shall not exceed two million dollars (\$2,000,000) per income year.

(C) Wages received during the 60-month period beginning with the day the qualified disadvantaged individual commences employment with the qualified taxpayer.

(D) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the region expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the region within the 60-month period prior to the region expiration date shall continue to qualify for the credit under this section after the region expiration date, in accordance with all provisions of this section applied as if the region designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Region" means a region designated pursuant to Section 7073.8 of the Government Code according to the procedures of Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(4) "Region expiration date" means the date the region designation expires, is no longer binding, or becomes inoperative.

(5) "Qualified disadvantaged individual" means an individual who satisfies all of the following requirements:

(A) (i) At least 90 percent of whose services for the qualified taxpayer during the income year are directly related to the conduct of the qualified taxpayer's trade or business located in a region.

(ii) Who performs at least 50 percent of his or her services for the qualified taxpayer during the income year in the region.

(B) Who is hired by the qualified taxpayer after the designation of the area as a region in which the individual's services were primarily performed.

(C) Who is any of the following immediately preceding the individual's commencement of employment with the qualified taxpayer:

(i) An individual who has been determined eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.).

(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 as provided pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) Any individual who has been certified eligible by the Employment Development Department under the federal Targeted Jobs Tax Credit Program, whether or not this program is in effect.

(6) "Qualified taxpayer" means any corporation engaged in a trade or business within a region designated pursuant to Section 7073.8 of the Government Code and that meets both of the following:

(A) Is engaged in those lines of business described in Codes 2011 to 3999, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(B) At least 30 percent of the corporation's work force hired after the designation of the region is composed of qualified disadvantaged individuals who, at the time of hire, are residents of the county in which the region is located.

(c) (1) For purposes of this section, all of the following apply:

(A) All employees of all corporations that are members of the same controlled group of corporations shall be treated as employed by a single taxpayer.



(B) The credit (if any) allowable by this section with respect to each member shall be determined by reference to its proportionate share of the expenses of the qualified wages giving rise to the credit and shall be allocated in that manner.

(C) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (d) of Section 23622.7, shall apply with respect to determining employment.

(2) If a qualified taxpayer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (d)) for any calendar year ending after that acquisition, the employment relationship between a qualified disadvantaged individual and a qualified taxpayer shall not be treated as terminated if the qualified disadvantaged individual continues to be employed in that trade or business.

(d) (1) If the employment of any qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (b) is terminated by the qualified taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that qualified disadvantaged individual completes 90 days of employment with the qualified taxpayer, the tax imposed by this part for the income year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that income year and all prior income years attributable to qualified wages paid or incurred with respect to that qualified disadvantaged individual.

(2) (A) Paragraph (1) does not apply to any of the following:

(i) A termination of employment of a qualified disadvantaged individual who voluntarily leaves the employment of the qualified taxpayer.

(ii) A termination of employment of a qualified disadvantaged individual who, before the close of the period referred to in paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of a qualified disadvantaged individual, if it is determined under the applicable employment compensation laws that the termination was due to the misconduct of that individual.

(iv) A termination of employment of a qualified disadvantaged individual due to a substantial reduction in the trade or business operations of the qualified taxpayer.

(v) A termination of employment of a qualified disadvantaged individual, if that individual is replaced by other qualified disadvantaged individuals so as to create a net increase in both the number of employees and the hours of employment.

(B) For purposes of paragraph (1), the employment relationship between the qualified taxpayer and a qualified disadvantaged individual shall not be treated as terminated by either of the following:

(i) By a transaction to which Section 381(a) of the Internal Revenue code applies, if the qualified disadvantaged individual continues to be employed by the acquiring corporation.

(ii) By reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the qualified disadvantaged individual continues to be employed in that trade or business and the qualified taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(e) The credit shall be reduced by the credit allowed under Section 23621. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the qualified taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (f) or (g).

(f) In the case where the credit otherwise allowed under this section exceeds the "tax" for the income year, that portion of the credit that exceeds the "tax" may be carried over and added to the credit, if any, in succeeding years, until the credit is exhausted. The credit shall be applied first to the earliest income years possible.

(g) (1) The amount of credit otherwise allowed under this section, including prior year credit carryovers, that may reduce the "tax" for the income year shall not exceed the amount of tax that would be imposed on the qualified taxpayer's business income attributed to a region determined as if that attributed income represented all of the net income of the qualified taxpayer subject to tax under this part.

(2) The amount of attributed income described in paragraph (1) shall be determined in accordance with the provisions of Chapter 17 (commencing with Section 25101), modified for purposes of this section as follows:

(A) Income shall be apportioned to a region by multiplying total business income by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(B) "The region" shall be substituted for "this state."

(3) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding income years, as if it were an amount exceeding the "tax" for the income year, as provided in subdivision (g).

(h) If the qualified taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed under this part with respect to any wage consisting in whole or in part of those qualified wages.

SEC. 8. Section 23612.2 of the Revenue and Taxation Code is amended to read:

**@@@@ LEG. COUNSEL: Please insert subdivision (a) through paragraph (2) of subdivision (b) of Section 23612.2.**

(3) "Enterprise zone" means the area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

**@@@@ LEG. COUNSEL: Please insert the remainder of Section 23612.2.**

SEC. 9. Section 23622.7 of the Revenue and Taxation Code is amended to read:

**@@@@ LEG. COUNSEL: Please insert subdivisions (a) through (f) of Section 23622.7.**

(g) For purposes of this section, "enterprise zone" means an area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

**@@@@ LEG. COUNSEL: Please insert the remainder of Section 23622.7.**

SEC. 10. Section 24384.5 of the Revenue and Taxation Code is amended to read:

**@@@@ LEG. COUNSEL: Please insert subdivisions (a) through (b) of Section 24384.5.**

(c) "Enterprise zone" means an area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

SEC. 11. If (1) this bill and AB 1040 are both enacted and (2) AB 1040 amends Sections 17053.17, 17053.46, 23623.5, and 23646, Sections 2 and 7 of this bill shall not become operative.

SEC. 12. If (1) this bill and AB 1040 are both enacted and (2) AB 1040 does not amend Sections 17053.17, 17053.46, 23623.5, and 23646, Sections 2.5 and 7.5 of this bill shall not become operative.